

Serial No. 09/944,150

Attorney Docket No. 12-006

**REMARKS**

Claim 20 was amended to correct a typographical error. Claims 20, 23, 24 and 26 remain pending in the application. Claims 1-19, 21-22, 25 and 27-32 were previously canceled. Claims 24 and 26 were withdrawn from consideration as being directed to a non-elected invention. The applicants respectfully request reconsideration and allowance of this application in view of the above amendments and the following remarks.

Claims 20 and 23 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,335,114 of Ueshima *et al.* (Ueshima) in view of EP 0 898 316 of Tsukuda *et al.* (Tsukuda). This rejection appears on pages 2-4 of the Official action.

The teachings of Ueshima were newly cited against applicants' claims. However, applicants respectfully submit that Ueshima is not a reference against the claims of this application under 35 U.S.C. §103(a). The present application was filed after November 29, 1999. Therefore, the American Inventor's Protection Act of 1999 applies to the present application. In particular, 35 U.S.C. § 103(c), as amended, states that subject matter, which qualifies as prior art only under 35 U.S.C. §§ 102 (e), (f) or (g) shall not preclude patentability of an invention claimed in an application when the subject matter of the prior art and invention were, at the time the invention was made, owned by the same person or subject to an obligation to assigned to the same person.

The undersigned attorney of record states:

**The present application and U.S. Patent No. 6,335,114 of Ueshima *et al.* were, at the time when the invention of the present application was made, commonly owned by Denzo Corporation.**

Serial No. 09/944,150

Attorney Docket No. 12-006

For this reason, U.S. Patent No. 6,335,114 of Ueshima *et al.* is not a reference against the claims of this application under 35 U.S.C. § 102 (e), (f) or (g) and 35 U.S.C. § 103 based thereon. In addition, U.S. Patent No. 6,335,114 of Ueshima *et al.* is not a reference against the claims of this application under any other subsection of 35 U.S.C. § 102. For these reasons, U.S. Patent No. 6,335,114 of Ueshima *et al.* cannot be relied on or used when rejecting the claims of this application. Therefore, applicants respectfully request that the examiner reconsider and withdraw any and all rejections of the claims in this application over U.S. Patent No. 6,335,114 of Ueshima *et al.*, either alone or combined with other teachings.

With respect to the teachings of EP 0 898 316 of Tsukuda *et al.* (Tsukuda), these teachings are directed to a *separator* for non-aqueous electrolyte batteries. On the other hand, applicants' claims are directed to a non-aqueous electrolyte secondary battery having *electrodes* consisting of a specific structure, as set forth in the present claims. A separator and electrodes are different structures and one cannot contemplate or suggest the other. Therefore, any structures proposed by Tsukuda relative to a separator are not particularly pertinent to the presently claimed non-aqueous electrolyte secondary battery having electrodes consisting of a defined structure.

In addition, the presently claimed invention is directed to electrodes comprising, *inter alia*, a porous film consisting of a modified polymer material for a non-aqueous electrolyte secondary battery, the modified polymer material having a backbone chain and at least a portion of the modified polymer material is modified by a first modifier, the first modifier having at least two successive carbon atoms bonded to carbon atoms of the backbone chain. Further, the presently claimed invention is directed to electrodes consisting of, *inter alia*, the porous film having a protective layer induced from the first modifier that is formed on the surface of the

Serial No. 09/944,150

Attorney Docket No. 12-006

modified polymer material by bonding the unsaturated multiple bond of the first modifier to the carbon atoms of the backbone chain. The teachings of Tsukuda do not disclose or suggest such a modified polymer material where at least a portion of the polymer material has at least two successive carbon atoms bonded to the carbon atoms of the backbone chain or such a protective layer, as presently claimed.

For at least the foregoing reasons, applicants respectfully submit that the inventions defined in claims 20 and 23 are patently distinguishable from the teachings of Tsukuda within the meaning of 35 U.S.C. §102 or 35 U.S.C. §103. Therefore, applicants respectfully request that the examiner reconsider and withdrawal any such rejection.

For at least the foregoing reasons, applicants respectfully submit that U.S. Patent No. 6,335,114 of Ueshima *et al.* is not available as a reference against the present claims and that the inventions defined in claims 20 and 23 are patently distinguishable from the teachings of Tsukuda within the meaning of 35 U.S.C. §102 or 35 U.S.C. §103. Therefore, applicants respectfully request that the examiner reconsider and withdraw all the rejections of applicants' claims and formally allow claims 20 and 23, together with withdrawn claims 24 and 26.

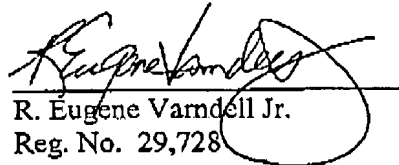
The foregoing is believed to be a complete and proper response to the Official action mailed February 12, 2007. While it is believed that all the claims in this application are in condition for allowance, should the examiner have any comments or questions, it is respectfully requested that the undersigned be telephoned at the below listed number to resolve any outstanding issues.

Serial No. 09/944,150

Attorney Docket No. 12-006

In the event this paper is not timely filed, applicants hereby petition for an appropriate extension of time. The fee therefor, as well as any other fees which become due, may be charged to our deposit account No. 50-1147.

Respectfully submitted,  
POSZ LAW GROUP, PLC



R. Eugene Varndell Jr.  
Reg. No. 29,728

12040 South Lakes Drive  
Suite 101  
Reston, VA 20191  
Phone 703-707-9110  
Fax 703-707-9112  
Customer No. 23400